

## **2007 DRAFTING REQUEST**

### **Assembly Substitute Amendment (ASA-AB528)**

Received: **01/17/2008**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gottlieb (608) 267-2369**

By/Representing: **Don Dyke**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gottlieb@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**  
**Don.Dyke@legis.wisconsin.gov**

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#### **Pre Topic:**

No specific pre topic given

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#### **Topic:**

Revisions to photographic system monitoring and owner liability for red light violations

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#### **Instructions:**

See Attached

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#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 01/18/2008	kfollett 01/24/2008		_____			S&L
/P1			pgreensl 01/25/2008	_____	cduerst 01/25/2008		S&L
/P2	agary 01/25/2008	kfollett 01/25/2008	rschluet 01/28/2008	_____	mbarman 01/28/2008		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 01/31/2008	kfollett 01/31/2008	jfrantze 01/31/2008	_____	sbasford 01/31/2008		S&L
/1	agary 02/18/2008	jdye 02/18/2008	rschluet 02/18/2008	_____	mbarman 02/18/2008	mbarman 02/18/2008	

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/P2	agary 01/25/2008	kfollett 01/25/2008	rschluet 01/28/2008	_____	mbarman 01/28/2008		S&L

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1P36f  
1134  
4/31  
1/31

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/?	agary	1 P/LGf 1/24	1/26 p8	1/26 p8	1/26 p8		

FE Sent For:

<END>



1/25/08

He from Dan Dyke

• Gottlieb reviewed it - one change

• ~~the~~ restrict photo to rear  
license plate of vehicle

11/11  
 The Sen - VM-6- 0292  
 Mtg w/ Sen Dyke  
 AG-528

• ~~for~~ for Gottlieb -

• treat like nonmoving traffic violator -  
 don't want it to get on driver  
 record

• x-ref procedure for 345.28

• don't want to x-ref violator of 346.27  
 • want mani. to create separate  
 violation that prohibits  
 proceeding thru intersection while  
 a signal is red

• max forfeiture of \$ 50 - per rail -  
 not no increase for repeat

• defense : par: (d), 1, 3, & 4.  
 • allow mani. by ordinance  
 to add other defenses

349.13 (1e) (a) - more complete  
 description of jurisdiction

• same system as parking tickets  
 p. 3, line 11 →

Friday  
1/25

2007 - 2008 LEGISLATURE

Soon

in 1/18

5 0226/P1

LRB-2298/1

ARG:kj:fs

Assembly Substitute Amendment,

stay SRMNR

TO **2007 ASSEMBLY BILL 528**

D-note

October 4, 2007 - Introduced by Representatives ZEPNICK, HONADEL, BERCEAU, FIELDS, SINICKI, BLACK, BIES, TOWNSEND, SOLETSKI, PARISI, MUSSEY, BALLWEG and A. OTT, cosponsored by Senator CARPENTER. Referred to Committee on Urban and Local Affairs.

Regen

- 1 AN ACT *to create* 349.107 of the statutes; **relating to:** the use of traffic control
- 2 photographic systems to monitor intersections, imposing liability on the
- 3 owners of vehicles involved in traffic control signal violations, and providing a
- 4 penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, the governing body of a municipality may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the ordinance is expressly authorized by law. State law imposes liability on the owner of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession, passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This bill authorizes the governing body of a county, city, village, or town to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the county, city, village, or town to detect and identify motor vehicles that fail to stop at red traffic signals at intersections. A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. The bill requires the ordinance to include a provision that allows a traffic officer employed by the county, city, village, or town

Substitute amendment

Insert ANAL-A

(red light violations)

**ASSEMBLY BILL 528**

in limited circumstances the lessee or operator,  
 to issue a ~~traffic~~ citation to the owner of a vehicle ~~that fails to stop at an intersection~~ *for a red light violation*  
~~marked by a red traffic signal and that is detected by a TCPS.~~ The ordinance must  
 require the local authority to send to the owner of the vehicle, by certified mail, the  
 traffic citation and a duplicate of the photograph, video, or digital image of the  
 vehicle failing to stop at a red traffic signal. The governing body of a county, city,  
 village, or town that uses a TCPS is required to erect signs at a sufficient distance  
 from an intersection monitored by a TCPS to warn motor vehicle operators that the  
 intersection is monitored by a TCPS.

If an owner is issued a traffic citation for a violation of the local ordinance, it  
 is not a defense that the owner was not in control of the vehicle at the time of the  
 violation, except that the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within a  
 reasonable time after the violation occurred.

~~2. A person other than the owner admits committing the violation.~~

~~2.3.~~ If the vehicle is owned by, and registered in the name of, a lessor, a lessee who  
 is identified by the lessor had possession of the vehicle at the time of the traffic signal  
 violation. *The lessee may be issued a citation for the red light violation.*

~~3.4.~~ If the vehicle is owned by a motor vehicle dealer, the vehicle was being  
 operated by another person on a trial run and the dealer provided a traffic officer  
 with the person's name, address, and operator's license number. ✓

*insert ANAL-C*  
 If an owner successfully asserts one of these defenses, then the operator, or,  
 with respect to item 3., above, the lessee of the vehicle at the time of the violation,  
 must be charged with failing to stop at a red traffic signal.

*no # The person's*  
 A vehicle owner who is convicted of a violation of the local ordinance may be  
 required to forfeit the same amount imposed on a vehicle operator under current law  
 for running a red traffic signal (not less than \$20 nor more than \$40 for a first  
 violation and not less than \$50 nor more than \$100 for a second or subsequent  
 violation, including prior state or local traffic light violations). However, the vehicle  
 owner's operating privilege may not be suspended or revoked and the ~~owner~~ *person* may not  
 be assessed any demerit points on his or her driving record.

For further information see the *state and local* fiscal estimate, which will be  
 printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do  
 enact as follows:**

*insert 2-1*  
 SECTION 1. 349.107 of the statutes is created to read:

**349.107 Authority to use traffic control photographic systems. (1) In**

this section:

**ASSEMBLY BILL 528**

1 (a) In addition to the meaning given in s. 340.01 (42), “owner” means, with  
2 respect to a vehicle that is registered, or that is required to be registered, by a lessee  
3 of the vehicle under ch. 341, the lessee of the vehicle.

4 (b) “Traffic control photographic system” means an electronic system consisting  
5 of a photographic, video, or electronic camera and a vehicle sensor installed for use  
6 with an official traffic control signal to automatically produce photographs or video  
7 or digital images, stamped with the time and date, of vehicles moving through an  
8 intersection.

9 (2) Subject to sub. (3), the governing body of any county, city, village, or town  
10 may enact an ordinance that allows the use of a traffic control photographic system  
11 on highways under the jurisdiction of the county, city, village, or town for the purpose  
12 of detecting a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity  
13 with s. 346.37 (1) (c) 1. or 3., and that may subject a person to a forfeiture for being  
14 the owner of a vehicle involved in a violation of s. 346.37 (1) (c) 1. or 3. or a local  
15 ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

16 (3) An ordinance enacted under sub. (2) shall include all of the following:

17 (a) A requirement that an official traffic sign be placed at a sufficient distance  
18 from an intersection monitored by a traffic control photographic system to provide  
19 motor vehicle operators adequate notice that the intersection is monitored by a  
20 traffic control photographic system.

21 (b) Except as provided in par. (d), a provision that the owner of a vehicle  
22 involved in a violation of s. 346.37 (1) (c) 1. or 3. or an ordinance enacted in conformity  
23 with s. 346.37 (1) (c) 1. or 3. that is detected by a traffic control photographic system  
24 may be subject to a forfeiture under par. (e) for owning the vehicle involved in the  
25 violation.

## ASSEMBLY BILL 528

## SECTION 1

1 (c) A requirement that, if a traffic officer employed by the governing body of the  
2 county, city, village, or town prepares a ~~uniform traffic citation under s. 345.1~~ for a  
3 violation of an ordinance enacted under this section, the traffic officer shall serve the  
4 owner of the vehicle with the citation by mailing the citation by certified mail  
5 addressed to the owner's last-known address within 48 hours after the violation. A  
6 traffic officer shall send with the citation a duplicate of the photograph, video, or  
7 digital image, taken by the traffic control photographic system, of the vehicle  
8 involved in the violation.

9 (d) A provision that it is not a defense to a violation of the ordinance that the  
10 owner was not in control of the vehicle at the time of the violation, except that all of  
11 the following are defenses to a violation of an ordinance enacted under this section:

12 1. That a report that the vehicle was stolen was made by the owner to a law  
13 enforcement agency before the violation occurred or within a reasonable time after  
14 the violation occurred.

15 2. That the owner of the vehicle provided a traffic officer with the name and  
16 address of the person operating the vehicle at the time of the violation and the person  
17 so named admits operating the vehicle at the time of the violation. In that case, the  
18 person operating the vehicle may be charged with a violation of s. 346.37 (1) (c) 1. or  
19 3. or a local ordinance enacted in conformity with s. 346.37 (1) (c) 1. or 3.

20 2. ~~3.~~ That the vehicle is owned by a lessor of vehicles and is registered in the name  
21 of the lessor, that at the time of the violation the vehicle was in the possession of a  
22 lessee, and that the lessor provided a traffic officer with the information required  
23 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.

24 346.37 (1) (c) 1. or 3. or a local ordinance enacted in conformity with s. 346.37 (1) (c)  
25 1. or 3.

the ordinance  
enacted under  
this section.

## ASSEMBLY BILL 528

1 3.4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but  
2 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation  
3 the vehicle was being operated by a person on a trial run, and the dealer provided  
4 a traffic officer with the name, address, and operator's license number of the person  
5 operating the vehicle. In that case, the person operating the vehicle may be charged <sup>issued a citation and</sup>  
6 with a violation of ~~s. 346.37 (1) (c) 1. or 3. or a local ordinance enacted in conformity~~ <sup>the ordinance enacted under this section.</sup>  
7 with s. 346.37 (1) (c) 1. or 3. <sup>of not more than \$50</sup>

8 (e) A provision that permits a court to impose a forfeiture for a violation of an  
9 ordinance enacted under this section. The forfeiture shall be consistent with the  
10 forfeiture that would be imposed under s. 346.43 for a violation of s. 346.37 (1) (c) 1.  
11 or 3. or that would be imposed by a local ordinance for a violation of an ordinance  
12 enacted in conformity with s. 346.37 (1) (c) 1. or 3. For purposes of this paragraph,  
13 a violation of ss. 346.37 to 346.39 or a local ordinance in conformity with ss. 346.37  
14 to 346.39 shall be counted as a prior violation.

15 (4) Imposition of liability for a violation of an ordinance enacted under this  
16 section shall not result in the suspension or revocation of a person's operating license  
17 under s. 343.30, nor shall it result in demerit points being recorded on a person's  
18 driving record under s. 343.32 (2) (a).

19 (END)

Insert  
5-18

D-Note

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0226/P1ins

ARG:.....

**INSERT ANAL-A:**

X (no P) With exceptions, the vehicle owner is subject to a forfeiture for the red light violation detected by a TCPS, but if the vehicle owner successfully asserts certain defenses, the lessee or operator of the vehicle is subject to a forfeiture for the violation.

**INSERT ANAL-B:**

(no P) or, in limited circumstances, to the operator of such a vehicle

**INSERT ANAL-C:**

(no P) The vehicle operator may be issued a citation for the red light violation.

4. Any other defense established by the county, city, village, or town that is specified in the ordinance.

Except for the service requirements described above, the procedure applicable to citations for red light violations detected by a TCPS is the same as that applicable to citations for nonmoving traffic violations (parking tickets), including potential vehicle registration suspension for unpaid citations. A person convicted of a red light violation detected by a TCPS is subject to a forfeiture of not more than \$50 but is not subject to additional surcharges, costs, or fees.

**INSERT 2-1:**

SECTION 1. 165.755 (1) (b) of the statutes is amended to read:

165.755 (1) (b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of a state law or municipal or county ordinance involving a



nonmoving traffic violation, a violation of an ordinance enacted under s. 349.107, a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

**History:** 1997 a. 27; 1999 a. 9, 72; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327; 2005 a. 25, 455.

**SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations, a violation of an ordinance enacted under s. 349.107, violations under s. 343.51 (1m) (b), or safety belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater. If multiple offenses are involved, the court shall determine the jail surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge in proportion to the suspension.

**History:** 1987 a. 27; 1989 a. 22; 1989 a. 31 s. 1670c, 1670g; Stats. 1989 s. 302.46; 1989 a. 97, 359; 1991 a. 26, 32, 130, 189; 1993 a. 313; 1995 a. 201; 1999 a. 72; 2001 a. 16; 2003 a. 30, 139, 268, 326, 327; 2005 a. 455.

**SECTION 3.** 341.08 (4m) of the statutes is amended to read:

341.08 (4m) At least 30 days prior to the expiration of a vehicle's registration, the department shall mail to the last-known address of the registrant a notice of the date upon which the registration must be renewed and an application form for renewal of registration. The application form or an accompanying document shall include a list of any unpaid citations for nonmoving traffic violations or violations of ordinances enacted under s. 349.107 or any judgments for violation of ch. 110, 194, or 341 to 350, an administrative rule of the department, or an ordinance enacted in

accordance with s. 349.06, including parking violations and violations of ordinances enacted under s. 349.107, and of any unpaid towing and storage charges associated with nonmoving traffic violations entered against the registrant that remain unpaid. The list of unpaid citations for nonmoving traffic violations and violations of ordinances enacted under s. 349.107, and of unpaid towing and storage charges associated with nonmoving traffic violations, shall be based on information obtained under s. 345.28 (4). The list of unpaid judgments shall be based on information obtained under s. 345.47 (1) (d). If there is a citation for any nonmoving traffic violation or violation of an ordinance enacted under s. 349.107 entered against the registrant that is unpaid, he or she shall be notified that the vehicle may not be registered until the citation is paid or the registrant appears in court to respond to the citation. If there are any towing and storage charges entered against the registrant that are unpaid, he or she shall be notified that the vehicle may not be registered until such towing and storage charges are paid. If there is a judgment entered against the registrant which is unpaid, he or she shall be notified that the vehicle may not be registered until the judgment is paid.

**Cross Reference:** ~~Cross Reference:~~ See also ch. Trans 128, Wis. adm. code. ~~Cross Reference:~~

**History:** 1971 c. 164; 1973 c. 218; 1975 c. 94; 1977 c. 29 ss. 1414, 1654 (7) (a); 1979 c. 34; 1981 c. 165; 1983 a. 180; 1987 a. 349; 1991 a. 13, 269, 316; 1995 a. 255, 338; 1997 a. 27; 1999 a. 88, 90, 110; 2003 a. 201.

**SECTION 4. 341.10 (7m) of the statutes is amended to read:**

**341.10 (7m)** An authority has notified the department under s. 345.28 (4) that a citation for a nonmoving traffic violation or violation of an ordinance enacted under s. 349.107 has been issued against the applicant and the applicant has not paid the citation or appeared in court to respond to the citation or that the applicant has not paid towing and storage charges associated with a citation for a nonmoving traffic violation issued against the applicant.

**History:** 1973 c. 131; 1975 c. 32; 1977 c. 29 s. 1654 (7) (a); 1979 c. 34; 1979 c. 274; 1981 c. 165; 1983 a. 27, 78, 103, 169, 330; 1987 a. 235; 1989 a. 56, 284; 1991 a. 39, 316; 1993 a. 159, 288; 1995 a. 227; 1997 a. 27, 237; 1999 a. 85; 2003 a. 201, 297.

✓  
**SECTION 5.** 345.20 (1) (b) of the statutes is amended to read:

345.20 (1) (b) "Traffic regulation" means a provision of chs. 194 or 341 to 349 for which the penalty for violation is a forfeiture or an ordinance enacted in accordance with s. 349.06. Except as otherwise specifically provided, "traffic regulation" does not include a nonmoving traffic violation as defined in s. 345.28 (1) or a violation of an ordinance enacted under s. 349.107.

**History:** 1971 c. 278; 1977 c. 305; 1979 c. 32 s. 92 (16), (17); 1979 c. 34; 1979 c. 175 s. 50; 1981 c. 20, 165; 1983 a. 74, 189; 1985 a. 36; 1987 a. 3, 267; 1989 a. 31, 105, 170, 335; 1993 a. 359; 1995 a. 227; 2003 a. 139.

**SECTION 6.** 345.20 (2) (d) of the statutes is amended to read:

X  
345.20 (2) (d) ~~A nonmoving~~ Nonmoving traffic violation is violations and violations of ordinances enacted under s. 349.107 are governed by s. 345.28. The trial of forfeiture actions for nonmoving traffic violations and violations of ordinances enacted under s. 349.107 is governed by ss. 345.28 and 345.34 to 345.47. Where no specific procedure is provided in ss. 345.28 or 345.34 to 345.47, ch. 799 applies to actions in circuit court and ch. 800 applies to actions in municipal court.

**History:** 1971 c. 278; 1977 c. 305; 1979 c. 32 s. 92 (16), (17); 1979 c. 34; 1979 c. 175 s. 50; 1981 c. 20, 165; 1983 a. 74, 189; 1985 a. 36; 1987 a. 3, 267; 1989 a. 31, 105, 170, 335; 1993 a. 359; 1995 a. 227; 2003 a. 139.

**SECTION 7.** 345.26 (1) (a) of the statutes is amended to read:

345.26 (1) (a) A person arrested under s. 345.22 or 345.28 (5) for the violation of a traffic regulation, or under s. 345.28 (5) for a nonmoving traffic violation or violation of an ordinance enacted under s. 349.107, who is allowed to make a deposit under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer directs by either mailing the deposit at a nearby mailbox to the office of the sheriff, headquarters of the county traffic patrol, district headquarters or station of the state traffic patrol, city, village or town police headquarters or a precinct station, the office

of the municipal judge, the office of the clerk of court, or by going, in the custody of the arresting officer, to any of those places to make the deposit.

**History:** 1971 c. 278; 1973 c. 218, 228, 336; 1977 c. 29; 1977 c. 305 s. 64; 1977 c. 449; 1981 c. 165 s. 20; 1981 c. 317; 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 107, 170, 359; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139.

**SECTION 8.** 345.28 (title) of the statutes is amended to read:

**345.28 (title) Nonmoving violations and certain red light violations.**

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 9.** 345.28 (1) (d) of the statutes is created to read:

345.28 (1) (d) "Red light violation" means a violation of an ordinance enacted under s. 349.107.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 10.** 345.28 (2) (a) and (b) of the statutes are amended to read:

345.28 (2) (a) A person charged with a nonmoving traffic violation or red light violation may mail the amount of the forfeiture to any of the places specified in s. 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer if the traffic citation so provides. In that case, the citation shall not be filed with or transmitted to court.

(b) If the person appears in response to a citation for a nonmoving traffic violation or red light violation, the procedures under ss. 345.34 to 345.47 apply, except as provided in par. (c).

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 11.** 345.28 (3) of the statutes is amended to read:

345.28 (3) (a) If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation or red light violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority that issued the citation may issue a summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing

the summons, may proceed under sub. (4) or (5) but, except as provided in this section, no warrant may be issued for the person. If the person does not pay towing and storage charges associated with a citation for a nonmoving traffic violation, the authority that issued the citation may proceed under sub. (4).

(b) If the person appears in response to a summons for a nonmoving traffic violation or red light violation, the procedures under ss. 345.34 to 345.47 apply.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 12.** 345.28 (4) (a) 1. of the statutes is amended to read:

345.28 (4) (a) 1. If the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation or red light violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation is issued, the authority may notify the department in the form and manner prescribed by the department that a citation has been issued to the person and the citation remains unpaid.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 13.** 345.28 (4) (e) 1. of the statutes is amended to read:

345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture and the costs, if any, under par. (d) or appears in court in response to the citation or a notice by the authority who issued the citation or the department, the department shall be immediately notified in the form and manner prescribed by the department. If the vehicle involved in the a nonmoving traffic violation is owned by a person engaged in the business of renting or leasing motor vehicles and the owner pays the costs, if any, under par. (d) and 50% 50 percent of the forfeiture, the authority shall

immediately notify the department in the form and manner prescribed by the department.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 14.** 345.28 (4) (i) of the statutes is amended to read:

345.28 (4) (i) Notwithstanding any other provision of this subsection or ss. 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a single notice to the department under par. (a) 1. with respect to 2 or more nonmoving traffic violation citations, or 2 or more red light violation citations, that have been issued to a person and remain unpaid and, if an authority sends a notice specified in this paragraph to the department, the authority and department shall treat any such notice for purposes of any other provision of this section or ss. 341.10 (7m) and 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with respect to a single citation.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 15.** 345.28 (5) (a) of the statutes is amended to read:

345.28 (5) (a) In lieu of the procedure under sub. (4), if the person does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation or red light violation on the date specified in the citation or, if no date is specified in the citation, within 28 days after the citation was issued, the authority, after sending 2 notices which meet the requirements under sub. (4) (c) 1., may issue a warrant under par. (b) for the person.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 16.** 345.28 (5) (b) 2. (intro.) and a. of the statutes are amended to read:

345.28 (5) (b) 2. (intro.) If an officer contacts a person for whom a warrant for a nonmoving traffic violation or red light violation has been issued under subd. 1.:

a. The officer shall accept a deposit of money or a deposit of the person's valid Wisconsin operator's license in lieu of serving the warrant and arresting the person. If the license is deposited with the officer, the officer shall issue to the licensee a receipt, on a form provided by the department, which is valid as an operator's license through a date specified on the receipt, not to exceed 30 days from the date of contact, which shall be the same as the court appearance date and the officer shall at the earliest possible time prior to the court appearance date deposit the license with the court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer shall notify the person who deposits money or his or her license, in writing, of the specific actions which the authority and the courts are authorized to take under this section if the person fails to appear in court at the time specified by the officer, not to exceed 30 days from the date of contact, or at any subsequent court appearance for the nonmoving traffic violation citation or red light violation. If the person makes a deposit of money or deposits his or her valid Wisconsin operator's license, the officer shall return the warrant to the court or judge who issued the warrant and the court or judge shall vacate the warrant.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 17.** 345.28 (5) (c) 1. and 2. of the statutes are amended to read:

345.28 (5) (c) 1. If the person who was contacted under par. (b) 2. and who has made a deposit of money fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation or red light violation, the person shall be deemed to have entered a plea of no contest. The court shall accept the plea of no contest, find the defendant guilty and proceed under s. 345.47, except that the deposit shall be forfeited and serve as payment of the judgment. The court shall give

notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address.

2. If the person who was contacted under par. (b) 2. and who has deposited his or her operator's license fails to appear in court at the date specified by the officer under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court appearance for the nonmoving traffic violation or red light violation, the person may be deemed to have entered a plea of no contest. The court may accept the plea of no contest, find the defendant guilty and, except as limited by sub. (6), proceed under s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice of the entry of judgment to the defendant by mailing a copy of the judgment to the defendant's last-known address. The court shall also mail to the defendant's last-known address a statement setting forth the actions the court may take under s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the court may issue a warrant commanding that the person be arrested and brought before the court. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subdivision may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance. The court may retain the person's license, but the person's operating privilege may not be suspended until after judgment is entered under s. 345.47 and the judgment is not paid.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 18.** 345.28 (7) of the statutes is amended to read:

345.28 (7) Nothing in this section prevents a court from issuing a warrant under s. 345.36 or 345.37 if the person appears in court in response to a citation for



✓  
a nonmoving traffic violation or red light violation or after notice by the authority who issued the citation or the department under sub. (4) with respect to the citation or on the date specified by the officer or the court under sub. (5) and then fails to appear in court at any time fixed by subsequent postponement. Unless the case is tried immediately with the person's consent, any person who is arrested on a warrant issued under this subsection may be released on his or her own recognizance or on posting bond or may be released without bail and shall be released if the person posts cash bail for his or her appearance.

**History:** 1981 c. 165; 1983 a. 103, 169; 1983 a. 189 s. 329 (32); 1983 a. 330; 1983 a. 538 ss. 219, 269 (1), (2); 1989 a. 31, 105; 1991 a. 67; 1993 a. 399, 437; 1997 a. 237; 2003 a. 201.

**SECTION 19.** 345.30 of the statutes is amended to read:

**345.30 Jurisdiction.** Jurisdiction over actions for violation of traffic regulations ~~and, nonmoving traffic violations, and violations of ordinances enacted~~ under s. 349.107 is conferred upon circuit courts. Municipal courts shall have jurisdiction over traffic regulations enacted in accordance with s. 349.06 ~~and, over~~ actions for violations of nonmoving traffic ordinances enacted in accordance with s. 349.06 or 349.13, and over actions for violations of ordinances enacted under s. 349.107.

**History:** 1971 c. 278; 1977 c. 449; 1981 c. 165.

**SECTION 20.** 345.31 of the statutes is amended to read:

**345.31 Venue in traffic regulation actions.** Section 971.19 on place of trial in criminal actions applies to actions for the violation of traffic regulations ~~and, nonmoving traffic violations, and violations of ordinances enacted under s. 349.107~~ except that, in the case of a violation of an ordinance of a municipality which is located in more than one county, the action may be brought in any court sitting in that

municipality even though in another county. As an alternative, the plaintiff may bring the action in the county where the defendant resides.

History: 1971 c. 278; 1981 c. 165.

**SECTION 21.** 345.315 (1) of the statutes is amended to read:

345.315 (1) In traffic regulation and nonmoving traffic violation cases, and in cases involving violations of ordinances enacted under s. 349.107, a person charged with a violation may file a written request for a substitution of a different judge for the judge originally assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. If a new judge is assigned to the trial of a case and the defendant has not exercised the right to substitute an assigned judge, a written request for the substitution of the new judge may be filed within 10 days of the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notification occurs within 10 days of the date set for trial, the request shall be filed within 48 hours of the giving of actual notice or sending of the notice of assignment to the defendant or the defendant's attorney. If the notification occurs within 48 hours of the trial or if there has been no notification, the defendant may make an oral or written request for substitution prior to the commencement of the proceedings. The judge against whom a request has been filed may set initial bail and accept a plea.

History: 1971 c. 278; 1973 c. 218; 1977 c. 135; 1977 c. 187 s. 135; 1977 c. 305, 449; 1979 c. 32 s. 92 (1), (17); 1981 c. 165; 1983 a. 218; 1987 a. 151.

**SECTION 22.** 345.36 (3) of the statutes is amended to read:

345.36 (3) If the offense involved is a nonmoving traffic violation or violation of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

History: 1971 c. 278; 1983 a. 231; 1987 a. 27; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135; 2001 a. 16; 2003 a. 139.

**SECTION 23.** 345.37 (1) (b) of the statutes is amended to read:

345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment accordingly. If the defendant has posted bond for appearance at that date, the court may also order the bond forfeited. The court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow not less than 20 days from the date thereof for payment of any forfeiture, plus costs, fees, and surcharges imposed under ch. 814. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise, or excusable neglect, the court shall open the judgment, accept a not guilty plea, and set a trial date. The court may impose costs under s. 814.07. The court shall immediately notify the department to delete the record of conviction based upon the original judgment. If the offense involved is a nonmoving traffic violation or violation of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

**History:** 1971 c. 278; 1973 c. 218; 1975 c. 231, 421; 1977 c. 29 ss. 1472 to 1475, 1654 (7) (a), (c); 1977 c. 273, 305; 1981 c. 317; 1985 a. 29; 1987 a. 27, 267, 399; 1989 a. 107, 170; 1991 a. 39; 1993 a. 16; 1997 a. 27, 135, 237; 1999 a. 9; 2001 a. 16; 2003 a. 139.

**SECTION 24.** 345.47 (1) (b) of the statutes is amended to read:

345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension or revocation, that the defendant's operating privilege be suspended. The operating privilege shall be suspended for 30 days or until the person pays the forfeiture, plus costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years. Suspension under this paragraph shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the secretary to suspend or revoke the operating privilege. This paragraph does not apply if the judgment was entered

solely for violation of an ordinance unrelated to the violator's operation of a motor vehicle or of an ordinance enacted under s. 349.107.

**History:** 1971 c. 278; 1973 c. 218; 1977 c. 29 ss. 1477 to 1482, 1654 (7) (c); 1979 c. 34; 1981 c. 165; 1987 a. 27, 389; 1989 a. 31, 107; 1991 a. 34, 39, 189; 1993 a. 16; 1995 a. 269; 1997 a. 27, 84, 135, 237, 252; 1999 a. 9, 32, 185; 2001 a. 16; 2003 a. 139; 2007 a. 20.

**INSERT 3-8:**

(2) Subject to sub. (3), the governing body of any county, city, village, or town may enact an ordinance that does all of the following:

(a) Except as provided in sub. (3) (c), subjects a person to a forfeiture for being the owner of a motor vehicle that, when facing a traffic control signal exhibiting a red light other than a flashing red light, does any of the following:

1. Fails to stop before entering the crosswalk on the near side of an intersection or, if there is no crosswalk, before entering the intersection or passing any other point indicated for stopping by a clearly visible sign or marking.

2. After stopping in the manner described in subd. 1., fails to remain standing until a green signal permits the vehicle to proceed or, if at an intersection where no sign prohibits a turn and if making a turn to the right into the nearest lawfully available lane for traffic moving to the right or to the left from a one-way highway into the nearest lawfully available lane of a one-way highway on which vehicular traffic travels to the left, fails to cautiously enter the intersection or yield the right-of-way to pedestrians, bicyclists, and riders of electric personal assistive mobility devices lawfully within a crosswalk or to other traffic lawfully using the intersection.

(b) Allows the use of a traffic control photographic system on highways under the jurisdiction of the county, city, village, or town, including connecting highways, for the purpose of detecting violations described in par. (a).

(c) Subjects a person to a forfeiture for being the lessee or operator of a motor vehicle the owner of which would be subject to a forfeiture under this section but for the owner's successful assertion of a defense under sub. (3) (d) 2. or 3.

**INSERT 4-5:**

(no P) If the citation may be issued under par. (d) to the lessee or operator of the vehicle, the traffic officer shall serve the lessee or operator with the citation, in the same manner required for service on the vehicle owner, within 48 hours of determining that the vehicle owner is likely to successfully assert a defense under par. (d).

**INSERT 4-8:**

(c) A requirement that the procedure specified in s. 345.28 applies to any citation for a violation of an ordinance enacted under this section.

**INSERT 5-7:**

4. Any other defense specified in the ordinance.

**INSERT 5-18:**

(5) Nothing in this section prohibits the issuance of a citation to the operator of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture for a violation of an ordinance enacted under this section and a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising from the same incident or occurrence.

**SECTION 25.** 752.31 (2) (c) of the statutes is amended to read:

752.31 (2) (c) Cases involving violations of traffic regulations, as defined in s. 345.20 (1) (b), ~~or~~ nonmoving traffic violations, as defined in s. 345.28 (1), or violations of ordinances enacted under s. 349.107, and cases under s. 343.305 and ch. 351.

**History:** 1977 c. 187; 1979 c. 32 s. 92 (16); 1979 c. 192; 1981 c. 152, 165, 391; 1983 a. 189 s. 329 (34); 1985 a. 29, 102; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1989 a. 31; 1991 a. 122; 1995 a. 77.

**SECTION 26.** 757.05 (1) (a) of the statutes is amended to read:

757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations, a violation of an ordinance enacted under s. 349.107, violations under s. 343.51 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty surcharge shall be reduced in proportion to the suspension.

**NOTE:** NOTE: Par. (a) is shown as affected by 3 acts of the 2005 Wisconsin legislature and as merged by the revisor under s. 13.93 (2) (c). **NOTE:**

**History:** 1999 a. 9 ss. 2292m, 2298, 3050m to 3050o; 1999 a. 72 s. 6; 1999 a. 150 s. 672; 2001 a. 16; 2003 a. 30, 33, 139, 268, 326, 327; 2005 a. 25, 60; 455; s. 13.93 (2) (c).

**SECTION 27.** 778.103 of the statutes is amended to read:

**778.103 Traffic regulation forfeitures; how recovered.** Where there is a conflict with this chapter, the procedure in ch. 345 shall be followed in actions to recover forfeitures for the violation of traffic regulations as defined in s. 345.20, and the procedures in ss. 345.28 and 345.34 to 345.47 shall be followed in actions to

recover forfeitures for nonmoving traffic violations as defined in s. 345.28 (1) and  
violations of ordinances enacted under s. 349.107.

History: 1971 c. 278; 1979 c. 32 s. 56; Stats. 1979 s. 778.103; 1981 c. 165.

**SECTION 28.** 785.05 of the statutes is amended to read:

**785.05 Limitation on imprisonment.** In any case in which the contempt of court is based upon interference with visitation rights granted under s. 48.925 (1), or upon failure to respond to a citation, summons or warrant under s. 345.28 or any other failure to pay or to appear in court for a nonmoving traffic violation or violation of an ordinance enacted under s. 349.107, the court may not impose imprisonment as a sanction under this chapter.

History: 1981 c. 165; 1991 a. 191.

**SECTION 29.** 800.09 (1) (c) of the statutes is amended to read:

800.09 (1) (c) The court may suspend the defendant's operating privilege, as defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments and costs are paid, if the defendant has not done so within 60 days after the date the restitution or payments or both are to be made under par. (a) and has not notified the court that he or she is unable to comply with the judgment, as provided under s. 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court shall take possession of the suspended license and shall forward the license, along with a notice of the suspension clearly stating that the suspension is for failure to comply with a judgment of the court, to the department of transportation. This paragraph does not apply if the forfeiture is assessed for violation of an ordinance that is unrelated to the violator's operation of a motor vehicle or of an ordinance enacted under s. 349.107.

History: 1977 c. 305; 1979 c. 32 s. 68; Stats. 1979 s. 800.09; 1981 c. 317; 1985 a. 179; 1987 a. 27, 389; 1987 a. 399 s. 494u; 1989 a. 107; 1991 a. 39, 40, 189; 1993 a. 16; 1997 a. 27, 84; 1999 a. 9, 185; 2001 a. 16; 2003 a. 139.

**SECTION 30.** 800.095 (4) (b) 4. of the statutes is amended to read:

800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s. 340.01 (40), be suspended until the judgment is complied with, except that the suspension period may not exceed 2 years. This subdivision does not apply if the forfeiture is assessed for violation of an ordinance that is unrelated to the violator's operation of a motor vehicle or of an ordinance enacted under s. 349.107.

**History:** 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185; 2005 a. 192.

**SECTION 31.** 938.17 (1) (intro.) of the statutes is amended to read:

938.17 (1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS. (intro.) Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss. 30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil jurisdiction have exclusive jurisdiction in proceedings against juveniles 16 years of age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as defined in s. 345.28 (1), and violations of ordinances enacted under s. 349.107. A juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult before the trial of the proceeding except that the juvenile may be held in secure custody only in a juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile, or all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes except as follows:

**History:** 1995 a. 77, 352, 448; 1997 a. 205, 239, 258; 1999 a. 9; 2001 a. 16; 2005 a. 190, 344; s. 13.93 (2) (c).



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0226/P1dn

ARG:...

Date

Please review the attached draft carefully to ensure that it is consistent with your intent. To accomplish the indicated changes for the substitute amendment, I felt it necessary to make significant changes to the bill, not all of which may be consistent with your expectations.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0226/P1dn  
ARG:kjf:pg

January 25, 2008

Please review the attached draft carefully to ensure that it is consistent with your intent. To accomplish the indicated changes for the substitute amendment, I felt it necessary to make significant changes to the bill, not all of which may be consistent with your expectations.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
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State of Wisconsin  
2007 - 2008 LEGISLATURE

Wanted Tues  
m 1/29

PZ  
LRBs0226/P1  
ARG:kjf:pg

m 1/25

RMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2007 ASSEMBLY BILL 528

Two changes - pp. 2 + 16

see aff ✓

Regen

1 AN ACT *to amend* 165.755 (1) (b), 302.46 (1) (a), 341.08 (4m), 341.10 (7m), 345.20  
2 (1) (b), 345.20 (2) (d), 345.26 (1) (a), 345.28 (title), 345.28 (2) (a) and (b), 345.28  
3 (3), 345.28 (4) (a) 1., 345.28 (4) (e) 1., 345.28 (4) (i), 345.28 (5) (a), 345.28 (5) (b)  
4 2. (intro.) and a., 345.28 (5) (c) 1. and 2., 345.28 (7), 345.30, 345.31, 345.315 (1),  
5 345.36 (3), 345.37 (1) (b), 345.47 (1) (b), 752.31 (2) (c), 757.05 (1) (a), 778.103,  
6 785.05, 800.09 (1) (c), 800.095 (4) (b) 4. and 938.17 (1) (intro.); and *to create*  
7 345.28 (1) (d) and 349.107 of the statutes; **relating to:** the use of traffic control  
8 photographic systems to monitor intersections, imposing liability on the  
9 owners of vehicles involved in traffic control signal violations, and providing a  
10 penalty.

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***Analysis by the Legislative Reference Bureau***

Under current law, the governing body of a municipality may not enact a traffic ordinance unless the ordinance strictly conforms to current state traffic law or the

ordinance is expressly authorized by law. State law imposes liability on the owner of a vehicle that is observed violating certain laws or local ordinances, including laws or local ordinances that prohibit fleeing a traffic officer, failing to yield the right-of-way to an emergency vehicle or funeral procession, passing a fire truck or school bus, and parking in a parking space designated for vehicles with special registration plates.

This substitute amendment authorizes the governing body of a county, city, village, or town to enact an ordinance that permits the use of a traffic control photographic system (TCPS) on highways under the jurisdiction of the county, city, village, or town to detect and identify motor vehicles that fail to stop at red traffic signals at intersections (red light violations). A TCPS is defined as an electronic system that consists of a photographic, video, or electronic camera and a vehicle sensor that work in conjunction with a traffic control signal to automatically produce photographs, stamped with the time and date, of motor vehicles traveling through an intersection. With exceptions, the vehicle owner is subject to a forfeiture for the red light violation detected by a TCPS, but if the vehicle owner successfully asserts certain defenses, the lessee or operator of the vehicle is subject to a forfeiture for the violation. The substitute amendment requires the ordinance to include a provision that allows a traffic officer employed by the county, city, village, or town to issue a citation to the owner of a vehicle for a red light violation that is detected by a TCPS or, in limited circumstances, to the operator of such a vehicle. The ordinance must require the local authority to send to the owner, or in limited circumstances the lessee or operator, of the vehicle, by certified mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle failing to stop at a red traffic signal. The governing body of a county, city, village, or town that uses a TCPS is required to erect signs at a sufficient distance from an intersection monitored by a TCPS to warn motor vehicle operators that the intersection is monitored by a TCPS.

If an owner is issued a traffic citation for a violation of the local ordinance, it is not a defense that the owner was not in control of the vehicle at the time of the violation, except that the owner may assert the following defenses:

1. The vehicle was reported stolen before the violation occurred or within a reasonable time after the violation occurred.
2. If the vehicle is owned by, and registered in the name of, a lessor, a lessee who is identified by the lessor had possession of the vehicle at the time of the traffic signal violation. The lessee may be issued a citation for the red light violation.
3. If the vehicle is owned by a motor vehicle dealer, the vehicle was being operated by another person on a trial run and the dealer provided a traffic officer with the person's name, address, and operator's license number. The vehicle operator may be issued a citation for the red light violation.
4. Any other defense established by the county, city, village, or town that is specified in the ordinance.

Except for the service requirements described above, the procedure applicable to citations for red light violations detected by a TCPS is the same as that applicable to citations for nonmoving traffic violations (parking tickets), including potential vehicle registration suspension for unpaid citations. A person convicted of a red light

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violation detected by a TCPS is subject to a forfeiture of not more than \$50 but is not subject to additional surcharges, costs, or fees. The person's operating privilege may not be suspended or revoked and the person may not be assessed any demerit points on his or her driving record.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 165.755 (1) (b) of the statutes is amended to read:

2           165.755 (1) (b) A court may not impose the crime laboratories and drug law  
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),  
4 (bm), (br), or (bv) or (5) (b), for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,  
5 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood  
6 alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,  
7 or for a violation of a state law or municipal or county ordinance involving a  
8 nonmoving traffic violation, a violation of an ordinance enacted under s. 349.107, a  
9 violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

10           **SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

11           302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law  
12 or for a violation of a municipal or county ordinance except for a violation of s. 101.123  
13 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s. 23.33 (4c) (a)  
14 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the  
15 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the  
16 time of the violation, or for a violation of state laws or municipal or county ordinances  
17 involving nonmoving traffic violations, a violation of an ordinance enacted under s.  
18 349.107, violations under s. 343.51 (1m) (b), or safety belt use violations under s.  
19 347.48 (2m), the court, in addition, shall impose a jail surcharge under ch. 814 in an

1 amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater.  
2 If multiple offenses are involved, the court shall determine the jail surcharge on the  
3 basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part,  
4 the court shall reduce the jail surcharge in proportion to the suspension.

5 **SECTION 3.** 341.08 (4m) of the statutes is amended to read:

6 341.08 (4m) At least 30 days prior to the expiration of a vehicle's registration,  
7 the department shall mail to the last-known address of the registrant a notice of the  
8 date upon which the registration must be renewed and an application form for  
9 renewal of registration. The application form or an accompanying document shall  
10 include a list of any unpaid citations for nonmoving traffic violations or violations of  
11 ordinances enacted under s. 349.107 or any judgments for violation of ch. 110, 194,  
12 or 341 to 350, an administrative rule of the department, or an ordinance enacted in  
13 accordance with s. 349.06, including parking violations and violations of ordinances  
14 enacted under s. 349.107, and of any unpaid towing and storage charges associated  
15 with nonmoving traffic violations entered against the registrant that remain unpaid.  
16 The list of unpaid citations for nonmoving traffic violations and violations of  
17 ordinances enacted under s. 349.107, and of unpaid towing and storage charges  
18 associated with nonmoving traffic violations, shall be based on information obtained  
19 under s. 345.28 (4). The list of unpaid judgments shall be based on information  
20 obtained under s. 345.47 (1) (d). If there is a citation for any nonmoving traffic  
21 violation or violation of an ordinance enacted under s. 349.107 entered against the  
22 registrant that is unpaid, he or she shall be notified that the vehicle may not be  
23 registered until the citation is paid or the registrant appears in court to respond to  
24 the citation. If there are any towing and storage charges entered against the  
25 registrant that are unpaid, he or she shall be notified that the vehicle may not be

1 registered until such towing and storage charges are paid. If there is a judgment  
2 entered against the registrant which is unpaid, he or she shall be notified that the  
3 vehicle may not be registered until the judgment is paid.

4 **SECTION 4.** 341.10 (7m) of the statutes is amended to read:

5 341.10 (7m) An authority has notified the department under s. 345.28 (4) that  
6 a citation for a nonmoving traffic violation or violation of an ordinance enacted under  
7 s. 349.107 has been issued against the applicant and the applicant has not paid the  
8 citation or appeared in court to respond to the citation or that the applicant has not  
9 paid towing and storage charges associated with a citation for a nonmoving traffic  
10 violation issued against the applicant.

11 **SECTION 5.** 345.20 (1) (b) of the statutes is amended to read:

12 345.20 (1) (b) "Traffic regulation" means a provision of chs. 194 or 341 to 349  
13 for which the penalty for violation is a forfeiture or an ordinance enacted in  
14 accordance with s. 349.06. Except as otherwise specifically provided, "traffic  
15 regulation" does not include a nonmoving traffic violation as defined in s. 345.28 (1)  
16 or a violation of an ordinance enacted under s. 349.107.

17 **SECTION 6.** 345.20 (2) (d) of the statutes is amended to read:

18 345.20 (2) (d) ~~A nonmoving~~ Nonmoving traffic violation is violations and  
19 violations of ordinances enacted under s. 349.107 are governed by s. 345.28. The trial  
20 of forfeiture actions for nonmoving traffic violations and violations of ordinances  
21 enacted under s. 349.107 is governed by ss. 345.28 and 345.34 to 345.47. Where no  
22 specific procedure is provided in ss. 345.28 or 345.34 to 345.47, ch. 799 applies to  
23 actions in circuit court and ch. 800 applies to actions in municipal court.

24 **SECTION 7.** 345.26 (1) (a) of the statutes is amended to read:

1           345.26 (1) (a) A person arrested under s. 345.22 ~~or 345.28 (5)~~ for the violation  
2 of a traffic regulation, or under s. 345.28 (5) for a nonmoving traffic violation or  
3 violation of an ordinance enacted under s. 349.107, who is allowed to make a deposit  
4 under s. 345.23 (2) (a) or 345.28 (5) shall deposit the money as the arresting officer  
5 directs by either mailing the deposit at a nearby mailbox to the office of the sheriff,  
6 headquarters of the county traffic patrol, district headquarters or station of the state  
7 traffic patrol, city, village or town police headquarters or a precinct station, the office  
8 of the municipal judge, the office of the clerk of court, or by going, in the custody of  
9 the arresting officer, to any of those places to make the deposit.

10           **SECTION 8.** 345.28 (title) of the statutes is amended to read:

11           **345.28 (title) Nonmoving violations and certain red light violations.**

12           **SECTION 9.** 345.28 (1) (d) of the statutes is created to read:

13           345.28 (1) (d) "Red light violation" means a violation of an ordinance enacted  
14 under s. 349.107.

15           **SECTION 10.** 345.28 (2) (a) and (b) of the statutes are amended to read:

16           345.28 (2) (a) A person charged with a nonmoving traffic violation or red light  
17 violation may mail the amount of the forfeiture to any of the places specified in s.  
18 345.26 (1) or to a violations bureau, or to the city, town or county clerk or treasurer  
19 if the traffic citation so provides. In that case, the citation shall not be filed with or  
20 transmitted to court.

21           (b) If the person appears in response to a citation for a nonmoving traffic  
22 violation or red light violation, the procedures under ss. 345.34 to 345.47 apply,  
23 except as provided in par. (c).

24           **SECTION 11.** 345.28 (3) of the statutes is amended to read:



1           345.28 (3) (a) If the person does not pay the forfeiture or appear in court in  
2     response to the citation for a nonmoving traffic violation or red light violation on the  
3     date specified in the citation or, if no date is specified in the citation, within 28 days  
4     after the citation is issued, the authority that issued the citation may issue a  
5     summons under s. 968.04 (3) (b) to the person and, in lieu of or in addition to issuing  
6     the summons, may proceed under sub. (4) or (5) but, except as provided in this  
7     section, no warrant may be issued for the person. If the person does not pay towing  
8     and storage charges associated with a citation for a nonmoving traffic violation, the  
9     authority that issued the citation may proceed under sub. (4).

10          (b) If the person appears in response to a summons for a nonmoving traffic  
11     violation or red light violation, the procedures under ss. 345.34 to 345.47 apply.

12           **SECTION 12.** 345.28 (4) (a) 1. of the statutes is amended to read:

13           345.28 (4) (a) 1. If the person does not pay the forfeiture or appear in court in  
14     response to the citation for a nonmoving traffic violation or red light violation on the  
15     date specified in the citation or, if no date is specified in the citation, within 28 days  
16     after the citation is issued, the authority may notify the department in the form and  
17     manner prescribed by the department that a citation has been issued to the person  
18     and the citation remains unpaid.

19           **SECTION 13.** 345.28 (4) (e) 1. of the statutes is amended to read:

20           345.28 (4) (e) 1. If the person subsequently pays the amount of the forfeiture  
21     and the costs, if any, under par. (d) or appears in court in response to the citation or  
22     a notice by the authority who issued the citation or the department, the department  
23     shall be immediately notified in the form and manner prescribed by the department.  
24     If the vehicle involved in the a nonmoving traffic violation is owned by a person  
25     engaged in the business of renting or leasing motor vehicles and the owner pays the

1 costs, if any, under par. (d) and ~~50%~~ 50 percent of the forfeiture, the authority shall  
2 immediately notify the department in the form and manner prescribed by the  
3 department.

4 **SECTION 14.** 345.28 (4) (i) of the statutes is amended to read:

5 345.28 (4) (i) Notwithstanding any other provision of this subsection or ss.  
6 341.10 (7m) and 341.63 (1) (c), the department may permit an authority to send a  
7 single notice to the department under par. (a) 1. with respect to 2 or more nonmoving  
8 traffic violation citations, or 2 or more red light violation citations, that have been  
9 issued to a person and remain unpaid and, if an authority sends a notice specified  
10 in this paragraph to the department, the authority and department shall treat any  
11 such notice for purposes of any other provision of this section or ss. 341.10 (7m) and  
12 341.63 (1) (c) in the same manner as a notice to the department under par. (a) 1. with  
13 respect to a single citation.

14 **SECTION 15.** 345.28 (5) (a) of the statutes is amended to read:

15 345.28 (5) (a) In lieu of the procedure under sub. (4), if the person does not pay  
16 the forfeiture or appear in court in response to the citation for a nonmoving traffic  
17 violation or red light violation on the date specified in the citation or, if no date is  
18 specified in the citation, within 28 days after the citation was issued, the authority,  
19 after sending 2 notices which meet the requirements under sub. (4) (c) 1., may issue  
20 a warrant under par. (b) for the person.

21 **SECTION 16.** 345.28 (5) (b) 2. (intro.) and a. of the statutes are amended to read:

22 345.28 (5) (b) 2. (intro.) If an officer contacts a person for whom a warrant for  
23 a nonmoving traffic violation or red light violation has been issued under subd. 1.:

24 a. The officer shall accept a deposit of money or a deposit of the person's valid  
25 Wisconsin operator's license in lieu of serving the warrant and arresting the person.

1 If the license is deposited with the officer, the officer shall issue to the licensee a  
2 receipt, on a form provided by the department, which is valid as an operator's license  
3 through a date specified on the receipt, not to exceed 30 days from the date of contact,  
4 which shall be the same as the court appearance date and the officer shall at the  
5 earliest possible time prior to the court appearance date deposit the license with the  
6 court. If a deposit of money is made, s. 345.26 (1) (a) and (2) to (5) applies. The officer  
7 shall notify the person who deposits money or his or her license, in writing, of the  
8 specific actions which the authority and the courts are authorized to take under this  
9 section if the person fails to appear in court at the time specified by the officer, not  
10 to exceed 30 days from the date of contact, or at any subsequent court appearance  
11 for the nonmoving traffic violation citation or red light violation. If the person makes  
12 a deposit of money or deposits his or her valid Wisconsin operator's license, the officer  
13 shall return the warrant to the court or judge who issued the warrant and the court  
14 or judge shall vacate the warrant.

15 **SECTION 17.** 345.28 (5) (c) 1. and 2. of the statutes are amended to read:

16 345.28 (5) (c) 1. If the person who was contacted under par. (b) 2. and who has  
17 made a deposit of money fails to appear in court at the date specified by the officer  
18 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court  
19 appearance for the nonmoving traffic violation or red light violation, the person shall  
20 be deemed to have entered a plea of no contest. The court shall accept the plea of no  
21 contest, find the defendant guilty and proceed under s. 345.47, except that the  
22 deposit shall be forfeited and serve as payment of the judgment. The court shall give  
23 notice of the entry of judgment to the defendant by mailing a copy of the judgment  
24 to the defendant's last-known address.

1           2. If the person who was contacted under par. (b) 2. and who has deposited his  
2 or her operator's license fails to appear in court at the date specified by the officer  
3 under par. (b) 2. a. or set under s. 345.32, 345.34 or 345.36 or at any subsequent court  
4 appearance for the nonmoving traffic violation or red light violation, the person may  
5 be deemed to have entered a plea of no contest. The court may accept the plea of no  
6 contest, find the defendant guilty and, except as limited by sub. (6), proceed under  
7 s. 345.47. If the court enters judgment under s. 345.47 (1), the court shall give notice  
8 of the entry of judgment to the defendant by mailing a copy of the judgment to the  
9 defendant's last-known address. The court shall also mail to the defendant's  
10 last-known address a statement setting forth the actions the court may take under  
11 s. 345.47 if the judgment is not paid. In lieu of accepting the plea of no contest, the  
12 court may issue a warrant commanding that the person be arrested and brought  
13 before the court. Unless the case is tried immediately with the person's consent, any  
14 person who is arrested on a warrant issued under this subdivision may be released  
15 on his or her own recognizance or on posting bond or may be released without bail  
16 and shall be released if the person posts cash bail for his or her appearance. The court  
17 may retain the person's license, but the person's operating privilege may not be  
18 suspended until after judgment is entered under s. 345.47 and the judgment is not  
19 paid.

20           **SECTION 18.** 345.28 (7) of the statutes is amended to read:

21           345.28 (7) Nothing in this section prevents a court from issuing a warrant  
22 under s. 345.36 or 345.37 if the person appears in court in response to a citation for  
23 a nonmoving traffic violation or red light violation or after notice by the authority  
24 who issued the citation or the department under sub. (4) with respect to the citation  
25 or on the date specified by the officer or the court under sub. (5) and then fails to

1 appear in court at any time fixed by subsequent postponement. Unless the case is  
2 tried immediately with the person's consent, any person who is arrested on a warrant  
3 issued under this subsection may be released on his or her own recognizance or on  
4 posting bond or may be released without bail and shall be released if the person posts  
5 cash bail for his or her appearance.

6 **SECTION 19.** 345.30 of the statutes is amended to read:

7 **345.30 Jurisdiction.** Jurisdiction over actions for violation of traffic  
8 regulations and, nonmoving traffic violations, and violations of ordinances enacted  
9 under s. 349.107 is conferred upon circuit courts. Municipal courts shall have  
10 jurisdiction over traffic regulations enacted in accordance with s. 349.06 and, over  
11 actions for violations of nonmoving traffic ordinances enacted in accordance with s.  
12 349.06 or 349.13, and over actions for violations of ordinances enacted under s.  
13 349.107.

14 **SECTION 20.** 345.31 of the statutes is amended to read:

15 **345.31 Venue in traffic regulation actions.** Section 971.19 on place of trial  
16 in criminal actions applies to actions for the violation of traffic regulations and,  
17 nonmoving traffic violations, and violations of ordinances enacted under s. 349.107  
18 except that, in the case of a violation of an ordinance of a municipality which is  
19 located in more than one county, the action may be brought in any court sitting in that  
20 municipality even though in another county. As an alternative, the plaintiff may  
21 bring the action in the county where the defendant resides.

22 **SECTION 21.** 345.315 (1) of the statutes is amended to read:

23 **345.315 (1)** In traffic regulation and nonmoving traffic violation cases, and in  
24 cases involving violations of ordinances enacted under s. 349.107, a person charged  
25 with a violation may file a written request for a substitution of a different judge for

1 the judge originally assigned to the trial of that case. The written request shall be  
2 filed not later than 7 days after the initial appearance in person or by an attorney.  
3 If a new judge is assigned to the trial of a case and the defendant has not exercised  
4 the right to substitute an assigned judge, a written request for the substitution of the  
5 new judge may be filed within 10 days of the giving of actual notice or sending of the  
6 notice of assignment to the defendant or the defendant's attorney. If the notification  
7 occurs within 10 days of the date set for trial, the request shall be filed within 48  
8 hours of the giving of actual notice or sending of the notice of assignment to the  
9 defendant or the defendant's attorney. If the notification occurs within 48 hours of  
10 the trial or if there has been no notification, the defendant may make an oral or  
11 written request for substitution prior to the commencement of the proceedings. The  
12 judge against whom a request has been filed may set initial bail and accept a plea.

13 **SECTION 22.** 345.36 (3) of the statutes is amended to read:

14 345.36 (3) If the offense involved is a nonmoving traffic violation or violation  
15 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28  
16 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

17 **SECTION 23.** 345.37 (1) (b) of the statutes is amended to read:

18 345.37 (1) (b) Deem the nonappearance a plea of no contest and enter judgment  
19 accordingly. If the defendant has posted bond for appearance at that date, the court  
20 may also order the bond forfeited. The court shall promptly mail a copy or notice of  
21 the judgment to the defendant. The judgment shall allow not less than 20 days from  
22 the date thereof for payment of any forfeiture, plus costs, fees, and surcharges  
23 imposed under ch. 814. If the defendant moves to open the judgment within 6 months  
24 after the court appearance date fixed in the citation, and shows to the satisfaction  
25 of the court that the failure to appear was due to mistake, inadvertence, surprise, or

1 excusable neglect, the court shall open the judgment, accept a not guilty plea, and  
2 set a trial date. The court may impose costs under s. 814.07. The court shall  
3 immediately notify the department to delete the record of conviction based upon the  
4 original judgment. If the offense involved is a nonmoving traffic violation or violation  
5 of an ordinance enacted under s. 349.107 and the defendant is subject to s. 345.28  
6 (5) (c), a default judgment may be entered and opened as provided in s. 345.28 (5) (c).

7 **SECTION 24.** 345.47 (1) (b) of the statutes is amended to read:

8 345.47 (1) (b) In lieu of imprisonment and in addition to any other suspension  
9 or revocation, that the defendant's operating privilege be suspended. The operating  
10 privilege shall be suspended for 30 days or until the person pays the forfeiture, plus  
11 costs, fees, and surcharges imposed under ch. 814, but not to exceed 2 years.  
12 Suspension under this paragraph shall not affect the power of the court to suspend  
13 or revoke under s. 343.30 or the power of the secretary to suspend or revoke the  
14 operating privilege. This paragraph does not apply if the judgment was entered  
15 solely for violation of an ordinance unrelated to the violator's operation of a motor  
16 vehicle or of an ordinance enacted under s. 349.107.

17 **SECTION 25.** 349.107 of the statutes is created to read:

18 **349.107 Authority to use traffic control photographic systems.** (1) In  
19 this section:

20 (a) In addition to the meaning given in s. 340.01 (42), "owner" means, with  
21 respect to a vehicle that is registered, or that is required to be registered, by a lessee  
22 of the vehicle under ch. 341, the lessee of the vehicle.

23 (b) "Traffic control photographic system" means an electronic system consisting  
24 of a photographic, video, or electronic camera and a vehicle sensor installed for use  
25 with an official traffic control signal to automatically produce photographs or video

1 or digital images, stamped with the time and date, of vehicles moving through an  
2 intersection.

3 (2) Subject to sub. (3), the governing body of any county, city, village, or town  
4 may enact an ordinance that does all of the following:

5 (a) Except as provided in sub. (3) (c), subjects a person to a forfeiture for being  
6 the owner of a motor vehicle that, when facing a traffic control signal exhibiting a red  
7 light other than a flashing red light, does any of the following:

8 1. Fails to stop before entering the crosswalk on the near side of an intersection  
9 or, if there is no crosswalk, before entering the intersection or passing any other point  
10 indicated for stopping by a clearly visible sign or marking.

11 2. After stopping in the manner described in subd. 1., fails to remain standing  
12 until a green signal permits the vehicle to proceed or, if at an intersection where no  
13 sign prohibits a turn and if making a turn to the right into the nearest lawfully  
14 available lane for traffic moving to the right or to the left from a one-way highway  
15 into the nearest lawfully available lane of a one-way highway on which vehicular  
16 traffic travels to the left, fails to cautiously enter the intersection or yield the  
17 right-of-way to pedestrians, bicyclists, and riders of electric personal assistive  
18 mobility devices lawfully within a crosswalk or to other traffic lawfully using the  
19 intersection.

20 (b) Allows the use of a traffic control photographic system on highways under  
21 the jurisdiction of the county, city, village, or town, including connecting highways,  
22 for the purpose of detecting violations described in par. (a).

23 (c) Subjects a person to a forfeiture for being the lessee or operator of a motor  
24 vehicle the owner of which would be subject to a forfeiture under this section but for  
25 the owner's successful assertion of a defense under sub. (3) (d) 2. or 3.



1           (3) An ordinance enacted under sub. (2) shall include all of the following:

2           (a) A requirement that an official traffic sign be placed at a sufficient distance  
3 from an intersection monitored by a traffic control photographic system to provide  
4 motor vehicle operators adequate notice that the intersection is monitored by a  
5 traffic control photographic system.

6           (b) A requirement that, if a traffic officer employed by the governing body of the  
7 county, city, village, or town prepares a citation for a violation of an ordinance enacted  
8 under this section, the traffic officer shall serve the owner of the vehicle with the  
9 citation by mailing the citation by certified mail addressed to the owner's last-known  
10 address within 48 hours after the violation. If the citation may be issued under par.

11 (d) to the lessee or operator of the vehicle, the traffic officer shall serve the lessee or  
12 operator with the citation, in the same manner required for service on the vehicle  
13 owner, within 48 hours of determining that the vehicle owner is likely to successfully  
14 assert a defense under par. (d). A traffic officer shall send with the citation a  
15 duplicate of the photograph, video, or digital image, taken by the traffic control  
16 photographic system, of the vehicle involved in the violation.

17           (c) A requirement that the procedure specified in s. 345.28 applies to any  
18 citation for a violation of an ordinance enacted under this section.

19           (d) A provision that it is not a defense to a violation of the ordinance that the  
20 owner was not in control of the vehicle at the time of the violation, except that all of  
21 the following are defenses to a violation of an ordinance enacted under this section:

22           1. That a report that the vehicle was stolen was made by the owner to a law  
23 enforcement agency before the violation occurred or within a reasonable time after  
24 the violation occurred.

1           2. That the vehicle is owned by a lessor of vehicles and is registered in the name  
2 of the lessor, that at the time of the violation the vehicle was in the possession of a  
3 lessee, and that the lessor provided a traffic officer with the information required  
4 under s. 343.46 (3). In that case, the lessee may be issued a citation and charged with  
5 a violation of the ordinance enacted under this section.

6           3. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but  
7 including the persons specified in s. 340.01 (11) (a) to (d), at the time of the violation  
8 the vehicle was being operated by a person on a trial run, and the dealer provided  
9 a traffic officer with the name, address, and operator's license number of the person  
10 operating the vehicle. In that case, the person operating the vehicle may be issued  
11 a citation and charged with a violation of the ordinance enacted under this section.

12           4. Any other defense specified in the ordinance.

13           (e) A provision that permits a court to impose a forfeiture of not more than \$50  
14 for a violation of an ordinance enacted under this section.

15           (4) Imposition of liability for a violation of an ordinance enacted under this  
16 section shall not result in the suspension or revocation of a person's operating license  
17 under s. 343.30, nor shall it result in demerit points being recorded on a person's  
18 driving record under s. 343.32 (2) (a).

19           (5) Nothing in this section prohibits the issuance of a citation to the operator  
20 of a motor vehicle for a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in  
21 conformity with s. 346.37 (1) (c) 1. or 3., but a person may not be subject to a forfeiture  
22 for a violation of an ordinance enacted under this section and a violation of s. 346.37  
23 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3. arising  
24 from the same incident or occurrence.

25           **SECTION 26.** 752.31 (2) (c) of the statutes is amended to read:

1           752.31 (2) (c) Cases involving violations of traffic regulations, as defined in s.  
2           345.20 (1) (b), ~~or~~ nonmoving traffic violations, as defined in s. 345.28 (1), or violations  
3           of ordinances enacted under s. 349.107, and cases under s. 343.305 and ch. 351.

4           **SECTION 27.** 757.05 (1) (a) of the statutes is amended to read:

5           757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of  
6           state law or for a violation of a municipal or county ordinance except for a violation  
7           of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), or for a first violation of s.  
8           23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who  
9           committed the violation had a blood alcohol concentration of 0.08 or more but less  
10          than 0.1 at the time of the violation, or for a violation of state laws or municipal or  
11          county ordinances involving nonmoving traffic violations, a violation of an ordinance  
12          enacted under s. 349.107, violations under s. 343.51 (1m) (b), or safety belt use  
13          violations under s. 347.48 (2m), there shall be imposed in addition a penalty  
14          surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed.  
15          If multiple offenses are involved, the penalty surcharge shall be based upon the total  
16          fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or  
17          in part, the penalty surcharge shall be reduced in proportion to the suspension.

18          **SECTION 28.** 778.103 of the statutes is amended to read:

19          **778.103 Traffic regulation forfeitures; how recovered.** Where there is a  
20          conflict with this chapter, the procedure in ch. 345 shall be followed in actions to  
21          recover forfeitures for the violation of traffic regulations as defined in s. 345.20, and  
22          the procedures in ss. 345.28 and 345.34 to 345.47 shall be followed in actions to  
23          recover forfeitures for nonmoving traffic violations as defined in s. 345.28 (1) and  
24          violations of ordinances enacted under s. 349.107.

25          **SECTION 29.** 785.05 of the statutes is amended to read:

1       **785.05 Limitation on imprisonment.** In any case in which the contempt of  
2 court is based upon interference with visitation rights granted under s. 48.925 (1),  
3 or upon failure to respond to a citation, summons or warrant under s. 345.28 or any  
4 other failure to pay or to appear in court for a nonmoving traffic violation or violation  
5 of an ordinance enacted under s. 349.107, the court may not impose imprisonment  
6 as a sanction under this chapter.

7       **SECTION 30.** 800.09 (1) (c) of the statutes is amended to read:

8       800.09 (1) (c) The court may suspend the defendant's operating privilege, as  
9 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments  
10 and costs are paid, if the defendant has not done so within 60 days after the date the  
11 restitution or payments or both are to be made under par. (a) and has not notified the  
12 court that he or she is unable to comply with the judgment, as provided under s.  
13 800.095 (4) (a), except that the suspension period may not exceed 2 years. The court  
14 shall take possession of the suspended license and shall forward the license, along  
15 with a notice of the suspension clearly stating that the suspension is for failure to  
16 comply with a judgment of the court, to the department of transportation. This  
17 paragraph does not apply if the forfeiture is assessed for violation of an ordinance  
18 that is unrelated to the violator's operation of a motor vehicle or of an ordinance  
19 enacted under s. 349.107.

20       **SECTION 31.** 800.095 (4) (b) 4. of the statutes is amended to read:

21       800.095 (4) (b) 4. That the defendant's operating privilege, as defined in s.  
22 340.01 (40), be suspended until the judgment is complied with, except that the  
23 suspension period may not exceed 2 years. This subdivision does not apply if the  
24 forfeiture is assessed for violation of an ordinance that is unrelated to the violator's  
25 operation of a motor vehicle or of an ordinance enacted under s. 349.107.

**SECTION 32.** 938.17 (1) (intro.) of the statutes is amended to read:

**938.17 (1) TRAFFIC, BOATING, SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.**

(intro.) Except for violations of ss. 342.06 (2) and 344.48 (1), and violations of ss.

30.67 (1) and 346.67 (1) when death or injury occurs, courts of criminal and civil

jurisdiction have exclusive jurisdiction in proceedings against juveniles 16 years of

age or older for violations of s. 23.33, of ss. 30.50 to 30.80, of chs. 341 to 351, and of

traffic regulations, as defined in s. 345.20, and nonmoving traffic violations, as

defined in s. 345.28 (1), and violations of ordinances enacted under s. 349.107. A

juvenile charged with a traffic, boating, snowmobile, or all-terrain vehicle offense

in a court of criminal or civil jurisdiction shall be treated as an adult before the trial

of the proceeding except that the juvenile may be held in secure custody only in a

juvenile detention facility. A juvenile convicted of a traffic, boating, snowmobile, or

all-terrain vehicle offense in a court of criminal or civil jurisdiction shall be treated

as an adult for sentencing purposes except as follows:

(END)

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0226/P2ins  
ARG:.....

**INSERT ANAL:**

(no R) The ordinance also must require that any photograph or other image produced by the TCPS be focused on the rear license plate of the vehicles moving through an intersection.

**INSERT 16-14:**

(f) A requirement that any photograph or video or digital image produced by the traffic control photographic system be taken from a direction to the rear of the vehicles moving through an intersection and be focused on the rear registration plate of such vehicles.

1/28

Hc from Don Dyke

6-0292

VM

- before I do another draft of step 1/24  
sub, talk to Don first

- before 1/1 or 1/3
- call back

- one change for 1/3

Hc w/ Don 1/30 p. 14 -

- proceed thru the internet agent's  
a red light or a light to ...

- proceed w/o stopping

- or proceeding after stopping  
if car is not turning

right

not attempt